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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,169	06/30/2000	Takayuki Urata	43890-430	9745

7590 11/18/2005
McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/608,169

Applicant(s)

URATA ET AL.

Examiner

Marc A. Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 13-15 and 65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 13-15 and 65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
REPEATED REJECTIONS

1. The 35 U.S.C. 103(a) rejection of Claim 1 as being unpatentable over Nowobilski et al (U.S. Patent No. 4,726,974) in view of Awata (U.S. Patent No. 5,866,228), of record on page 2 of the previous Action, is repeated.
2. The 35 U.S.C. 103(a) rejection of Claims 2 – 3, 13 – 15 and 65 as being unpatentable over Nowobilski et al (U.S. Patent No. 4,726,974) in view of Awata (U.S. Patent No. 5,866,228) and further in view of Pratte et al (U.S. Patent No. 6,127,509), of record on page 3 of the previous Action, is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claim 1 as being unpatentable over Nowobilski et al (U.S. Patent No. 4,726,974) in view of Awata (U.S. Patent No. 5,866,228) and 35 U.S.C. 103(a) rejection of Claims 2 – 3, 13 – 15 and 65 as being unpatentable over Nowobilski et al (U.S. Patent No. 4,726,974) in view of Awata (U.S. Patent No. 5,866,228) and further in view of Pratte et al (U.S. Patent No. 6,127,509), of record in the previous Action, have been considered but have not been found to be persuasive for the reasons set forth below.

The Rejection of Claim 1 Under 35 U.S.C. 103

Applicant argues, on page 2 of the remarks dated September 1, 2005, that Nowobilski discloses only one layer of plastic and one layer of metal, and therefore discloses only two

layers, and in fact continually refers to the film as dual layered film; the claimed invention, Applicant argues, comprises three layers.

However, as stated on page 2 of the previous Action, Nowobilski et al disclose at least one layer of plastic and at least one layer of metal and is therefore not limited to two layers or to a dual layer film.

Applicant also argues, on page 3, that Nowobilski et al is silent with regard to specifically laminating a second plastic film on the other side of the metal layer away from the first plastic.

However, as stated on page 3 of the previous Action, the plastic layer of Nowobilski et al is the inside layer of the bag; Nowobilski et al therefore disclose a laminate comprising an inside layer of plastic and outside layer of metal, or multiple layers of this laminate because Nowobilski et al disclose one or more layers. Nowobilski et al therefore disclose laminating a second plastic film on the other side of the metal layer away from the first plastic.

Applicant also argues, on page 3, that Nowobilski et al disclose a laminate which is flexible; therefore, there is no motivation to provide for the deposition of Awata in Nowobilski et al to provide flexibility.

However, because Nowobilski et al disclose flexibility and utilize a metal layer, and Awata teach the making of a metal layer by deposition to provide a flexible structure, there is motivation to provide for the making of the metal layer of Nowobilski et al by deposition.

The Rejection of Claims 2 – 3, 13 – 15 and 65 under 35 U.S.C. 103

Applicant also argues, on page 4, that Pratte et al do not teach use in a high temperature environment.

However, as stated on page 4 of the previous Action, Pratte et al clearly teach use in a high temperature environment

Applicant also argues, on page 5, that the only motivation for making the combination of Nowobilski et al and Awata with Pratte et al is Applicant's specification; the combination is based on hindsight reasoning, Applicant argues, because objective evidence does not suggest the desirability of the combination; the fact that references can be combined, Applicant argues does not render the combination obvious, nor do teachings that the aspects of the invention were individually known in the art.

However, as stated on page 4 of the previous Action, use in a high temperature environment provides motivation to combine Nowobilski et al and Awata with Pratte et al; objective evidence does not suggest the desirability of the combination, in addition to teachings that the aspects of the invention were individually known in the art.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 11/14/05
Marc A. Patterson, PhD.
Examiner
Art Unit 1772